ROY L. McKAY

IBLA 81-496 Decided September 14, 1981

Appeal from decision of the New Mexico State Office of the Bureau of Land Management increasing oil and gas lease rental.

Affirmed.

1. Oil and Gas Leases: Discovery -- Oil and Gas Leases: Known Geologic Structure -- Oil and Gas Leases: Noncompetitive Leases -- Oil and Gas Leases: Production

   A determination by the Geological Survey that certain lands are within the known geologic structure of a producing oil and gas field does not guarantee the productive quality of the lands included in the structure. The boundaries of a known geologic structure of a producing oil and gas field are defined for administrative purposes and cannot be taken as absolutely and accurately showing the extent in each instance of the geologic structure producing oil or gas.

   The fact that there has been a cessation of production or abandonment of wells in a given field is not of itself sufficient to warrant a redefinition of the structure or the revocation of the classification of the field in the absence of a proper showing that the area does not in fact contain valuable deposits or oil or gas.

2. Oil and Gas Leases: Generally -- Oil and Gas Leases: Discovery -- Oil and Gas Leases: Known Geologic Structure -- Oil and Gas Leases: Rentals

   A determination by the Geological Survey of the known geologic structure of a

> producing oil and gas field will not be disturbed in the absence of a clear showing that the determination was improperly made, nor will the applicable rental be reduced without such showing.

APPEARANCES: Roy L. McKay, pro se; John H. Harrington, Esq., Office of the Field Solicitor, Santa Fe, New Mexico, for the Bureau of Land Management.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

Roy L. McKay has appealed from the February 19, 1981, decision of the New Mexico State Office, Bureau of Land Management (BLM), increasing the annual rental for oil and gas lease NM-21510 from 50 cents per acre to $2 per acre in accordance with 43 CFR 3102.2-3(b)(1).

BLM's action was taken pursuant to a report by the Acting District Supervisor, Geological Survey (GS), at Roswell, New Mexico, that certain lands embraced by the lease had been included in an addition to the undefined Bell Lake known geologic structure (KGS) of a producing oil or gas field. The regulation, supra, provides that leases wholly or partly within a KGS which were issued noncompetitively (as this lease was) shall be charged annual rental of $2 per acre or fraction thereof.

The basis for the determination that lands within this lease were properly included within the addition to the undefined KGS is explained in the April 15, 1981, memorandum by GS Resource Evaluation Geologist N. E. Wingard, as follows:

> The portion of the KGS addition affecting lease NM 21510 is based on Natomas North America, Inc.'s No. 1 State "24" Comm., located in the NE 1/4 SW 1/4 of sec. 24, T. 23 S., R. 34 E. This well was completed in the Bone Spring Fm. on August 7, 1980, with an initial production of F/7 BO + 40 MCFGPD. Proximity of the affected Federal lease land to the producing well renders it presumptively productive of oil and gas. Moreover, all of the land contained in lease NM 21510 is within the potential drainage area of this well.

McKay (appellant) argues, in effect, that the increase in the lease rental is not justified because the inclusion of some of the leased lands in the KGS was improperly determined by GS on the basis stated. He points out that the well mentioned in the foregoing memorandum (Natomas State Com. "24" #1) proved to be commercially uneconomic and unproductive in the Atoka/Morrow zones, and that it will be plugged and abandoned. In support of this assertion he has provided several documents pertaining to the well's production, procedures for its plugging and abandonment, and to the salvage of its equipment. These documents indicate that although after treatment with acid the well tested for a potential of 7 barrels of oil and 40,000 cubic feet

of gas per day, a test on December 9, 1980, produced zero barrels fluid. A report on gas production states, "The volume of gas is too small to measure. In addition, the flowing tube pressure during testing declined to 60 psi, while the gas sales line pressure is approximately 450 psi. The installation of a compressor for this small volume of gas is impractical and uneconomical."

[1] The history of this well, while unfortunate, does more to persuade us that the GS determination was correct than otherwise. The presence and production of oil and gas, even in scant, noncommercial quantities, would indicate inferentially that it is on the same structure as the producing field nearby.

We have often held that a determination by GS that certain lands are within a KGS of a producing field does not guarantee the productive quality of the included lands, and the fact that there has been a cessation of production or abandonment of wells is not of itself sufficient to warrant redefinition of the structure in the absence of a proper showing that the lands do not contain valuable deposits of oil or gas. James Muslow, Sr., 51 IBLA 19 (1980), and cases therein cited; but see David A. Provinse, 27 IBLA 376, 386 (dissenting opinion). The boundaries of a KGS are defined for administrative purposes, and cannot be taken as absolutely and accurately showing the extent in each instance of the geological structure. Vernon Benson, 48 IBLA 64 (1980).

[2] However, where, as in this case, it appears that there is a reasonable basis for the determination that the lands in the expanded area of the KGS are on the structure of a producing field, that determination will not be disturbed in the absence of a clear showing that it was improperly made, nor will the applicable rental be reduced without such showing.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Edward W. Stuebing
Administrative Judge

We concur:

James L. Burski
Administrative Judge

Douglas E. Henriques
Administrative Judge